

REMARKS

Reconsideration of the application, in light of the enclosed remarks, is respectfully requested.

I Status of the Claims

Claims 1, 2, 7-9, 13, 14, and 25-41 are pending in the application.

II Status of the Specification

The Examiner objected to the Abstract. Applicants have corrected the Abstract and a replacement is attached herewith as page A-1. The Abstract has been replaced pursuant to the Examiner's suggestion. No new matter has been added.

III Double Patenting

Claims 31 and 41 are rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over claims 1-45 of U.S. Patent No. 6,186,970 ("the '970 patent"). Applicants respectfully traverse the double patenting rejection since the claimed subject matter in the present application is patentably distinct from the '970 patent. Claims 31 and 41 depend from claim 1 and the elements of claim 1 are incorporated in the claims depending from it. Claim 1 claims a portion to support regions of the wearer's body which is patentably distinct from the support portions of the '970 patent. For example, claim 1 of the present invention provides support for different portions of a user's back and buttocks.

Claims of the '970 patent and claims 31 and 41 are directed to supporting the musculus gastrocnemius and the musculus soleus. However, the nature and positioning of the straining forces as claimed in claims 31 and 41 are patentably distinct from the straining forces applied by the garment claimed in the '970 patent. Also, the straining portions supporting the lower leg interact differently with the lower body portions of the garments in each invention. Thus, some of the distinctiveness of the claims of the present invention stem from the lower body supporting portions, the positioning of the lower leg supporting portions and the interaction of the lower body and lower leg portions.

In light of the reasons set forth herein, Applicants respectfully request withdrawal of the rejections for double patenting and urge allowance of the claims.

IV Rejections under 35 U.S.C. § 102

Claims 2, 3, 13, 27, 29, and 38-40 are rejected under 35 U.S.C. § 102(b) as anticipated by Japanese Patent Application 06-12412 to Atelier Lipstick K.K. ("JP '412"). The Examiner submits that the reference discloses all of the elements of the claimed invention. Applicants note a typographical error and assume that the rejection of claim 3 is a typographical error, since claim 3 was not pending at the time of examination, and that the Examiner rejected claim 1.

Applicants respectfully traverse the rejection. Applicants are assuming that the Examiner contends that JP '412's hip covering region 4 corresponds to the strong straining portion of claim 1. Applicants respectfully disagree. JP '412 does not disclose that hip covering region 4 has a strong straining force. JP '412 discloses reference 4 as either "buttock covering regions" or "hip covering regions" (emphasis added). Additionally, JP '412 discloses that reference 5 is "stretchable fabric

patches” and references 6 and 7 are “power net patches”. “Power net patches” corresponds to the portion with a strong straining force and the portion 4 and 5 corresponds to the portion with a weak, or no, straining force. JP ‘412 makes a distinction between regular fabric that acts to just cover the anatomy of a user, stretchable fabric and the fabric that has the greatest elastic force. Given the above, JP ‘412’s hip covering regions 4 are fabric, do not have great elastic force, and cannot exert greater elastic force. Hip covering regions 4 are in contrast to, and cannot anticipate, “a strong straining portion (A)” as claimed in claim 1.

Further, the “power net patches” of JP ‘412 are not aligned in the same location as recited in the claims and do not support the same portions of the anatomy in the same manner. Claim 1 recites that portion (A) connects at “any region from os sacrum to vertebrae lumbalis of the wearer's body.” Figure 2 of JP ‘412 illustrates that power net patch 6 does not connect near the vertebrae lumbalis or os sacrum. Furthermore, Figure 2 and claim 1 of JP ‘412 disclose that power net patches 6 “bring up lower parts of the buttocks.” In contrast, portion (A) “covers a region ... through tops of bulges of the buttocks ... to at least the vicinity of trochanter major”, thus portion (A) does not extend below the buttocks.

Regarding claims 2, 13, 27, 29, and 38-40, they depend from claim 1 and are allowable based at least on the dependency to the independent claim.

Further, regarding claims 2 and 13, Applicants respectfully disagree with the Examiner’s reading of JP ‘412. Power net patches 6 do not connect “at a position on the garment corresponding to musculus rectus abdominis in hypogastric region”. JP ‘412 only illustrates a side and rear view of the garment. JP ‘412 does not illustrate the front of the garment which would correspond to the location of the musculus rectus abdominis and the JP ‘412 does not suggest or disclose a strong

straining portion positioned as claimed. Additionally, Figure 1 of JP '412 illustrates power net patches 6 along the side of the hips and not extending around to the musculus rectus abdominis in hypogastric region. Thus, Applicants respectfully submit that Figure 1 cannot be interpreted as teaching or suggesting the strong straining portion as claimed.

Regarding claim 29, JP '412 does not disclose power net patch 7 covering a region extending from the vicinity of trochanter major to the front of the thigh. Figures 1 and 2 of JP '412 illustrate that power net patch 7 starts below the buttocks and JP '412 does not illustrate how the garment covers the front portion of the thigh. Applicants submit that JP '412 does not disclose the claimed element and the Examiner is improperly assuming the structure of the front of JP '412's garment, since the front portion of the garment is not illustrated.

JP '412 does not anticipate claims 1, 2, 13, 27, 29, and 38-40 and Applicants respectfully request that the rejection be withdrawn.

V Rejections under 35 U.S.C. § 103

Claims 36 and 37 are rejected under 35 U.S.C. § 103(a) as obvious over JP '412. Claims 7-9, 14, 25-26, 28, 32, and 38-40 are rejected under 35 U.S.C. § 103(a) as obvious over JP '412 in view of International Publication WO98/21987 ("WO '987"). Claims 33-35 are rejected under 35 U.S.C. § 103(a) as obvious over JP '412 in view of U.S. Patent No. 5,640,714 to Tanaka. Applicants respectfully traverse the above rejections.

Claims 7-9, 14, 25-26, 28, 32-35, and 38-40 all depend from claim 1 and the argument above regarding JP '412 is applicable in traversing this rejection.

Thus, neither JP '412, WO '987 nor Tanaka teach or suggest to one of ordinary skill in the art all of the elements of the claimed invention. Applicants respectfully request that the Examiner withdraw the rejection to claims 7-9, 14, 25-26, 28, 32-35, and 38-40.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Dated: April 27, 2004

Respectfully submitted,

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